

STATEMENT BY DANIEL N. WENK, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE ENERGY AND NATURAL RESOURCES SUBCOMMITTEE ON NATIONAL PARKS CONCERNING S. 169, TO AMEND THE NATIONAL TRAILS SYSTEM ACT TO CLARIFY FEDERAL AUTHORITY RELATING TO LAND ACQUISITION FROM WILLING SELLERS FOR THE MAJORITY OF THE TRAILS IN THE SYSTEM.

April 26, 2007

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today to present the Department's views on S. 169, the National Trails System Willing Seller Act. S. 169 would amend the National Trails System Act to provide land acquisition authority from willing sellers, but specifically exclude the use of condemnation, for nine national scenic and national historic trails established between 1978 and 1986.

The Department supports S. 169, which is similar to legislation the Department supported during the 108th Congress. The Department supports the 17 national historic trails, 8 scenic trails, and 900 national recreation trails that make up the approximately 60,000 miles of trails in the National Trails System. National trails are a popular way of linking together thousands of significant historic sites and drawing attention to local cultural and natural resources. This network of trails has provided millions of visitors across the country with rewarding and enjoyable outdoor experiences. Thousands of volunteers each year work tirelessly to plan promote, build, maintain and otherwise care for these trails.

Trails can provide an important opportunity to promote citizen involvement and bring together communities. The Department of the Interior has developed a set of principles that will serve as

an important guide for all land transactions conducted by the Department. The principles include:

1. **Integrity:** Transactions shall meet the highest ethical standards and comply with all applicable laws, rules, regulations and codes of professional conduct.
2. **Good Faith:** Transactions shall occur in good faith and only with willing parties.
3. **Transparency:** Transactions shall be pursued transparently with appropriate opportunities for public participation.
4. **Mission:** Transactions shall promote fulfillment of Departmental and Bureau missions.
5. **Citizen Stewardship:** Transactions shall be consistent with the promotion of private stewardship.
6. **Innovation:** Transactions shall employ easements, donations and other alternatives to fee title when appropriate.
7. **Congressional Direction:** The Department shall provide technical assistance and policy recommendations to Congress, when requested, and in a manner consistent with these principles.

Within this framework, the Department recognizes the positive role the Federal government could play in the protection of these trails with the authority provided under S. 169. For example, current provisions of the National Trails System Act prohibit the expenditure of funds to acquire lands and do not provide clear authority to accept donated lands or easements. The current prohibition on using funds to acquire lands also applies to the acquisition of interest in lands, and thus, the Federal government cannot purchase easements from interested landowners.

It is paramount that we work closely with private landowners, local communities, private volunteer groups, and State and local governments to discover creative solutions for trail protection that may not result in fee simple acquisition. To ensure that such alternative solutions are fully explored, we have provided a proposed amendment at the end of this testimony.

In addition to the considerations in our proposed amendment, we understand that several additional steps would have to occur before purchase of a trail segment from a willing seller occurs including: developing a land protection plan; undergoing a public review process; and requesting, obtaining and prioritizing appropriate funding.

The National Trails System Act was initially developed by Congress principally to offer Federal assistance and support for protecting the land base of the Appalachian National Scenic Trail. When the act was passed in 1968, both the previously existing Appalachian and Pacific Crest National Scenic Trails were established as the two initial components of the National Trails System and 14 more trails were proposed for study as potential additions to the National Trail System. The core authorities of the act addressed how to establish nationally significant trails.

In 1978, the national historic trails category was added to the National Trails System accompanied by authorization of four historic trails (Oregon, Mormon Pioneer, Lewis and Clark, and Iditarod). National historic trails were seen as primarily commemorative with only limited need for acquisition authority. Amendments added to the National Trails System Act prohibited expenditures by Federal agencies to acquire lands or interests in lands for these trails outside of existing Federal areas. Amendments added in 1980 and 1983 made this prohibition applicable to

the Continental Divide National Scenic Trail, as well as to the North Country, Ice Age, and Potomac Heritage National Scenic Trails. This means the generic land acquisition authorities provided in Section 7 of the National Trails System Act cannot be used on any of these scenic and historic trails.

Since 1983, most of the trails established under the National Trails System Act have had language similar to the following sentence: “No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the United States for the Pony Express National Historic Trail except with the consent of the owner thereof.” This “willing seller authority” falls somewhere between the full land acquisition authority used to protect the Appalachian and Pacific Crest National Scenic Trails and the ban on Federal funding for acquiring segments that fall outside of national parks, forests and wildlife refuges on the nine trails included in this bill.

From its beginning, the National Trails System was premised on the establishment, operation, and maintenance of national trails as collaborative partnership efforts. For land protection, specifically, state governments and nonprofit partners are encouraged to protect what they can of the national trails, with the Federal government embarking on land acquisition only as a last resort. For example, in Wisconsin, an arrangement was set up for the Ice Age National Scenic Trail under which the State of Wisconsin took the lead in acquiring trail lands, with support from the Ice Age Park and Trail Foundation and coordination by the National Park Service. Further, trail nonprofit partners have been encouraged to develop land trusts to acquire critical lands. This bill is supported by a broad coalition of trail organizations across America.

Along historic trails, the major means of protecting the trail corridor has been through a voluntary certification process. These renewable agreements between the Federal trail agency and the landowner have enabled trail sites and segments to remain in private ownership and still receive Federal government recognition as part of a national historic trail. The advantages to certification are that it is less costly for the government and the land remains in private (or State) ownership, continuing to generate taxes.

It would be impossible to estimate funding requirements associated with this bill at this time, as the number of willing sellers is unknown, whether donation, easements, or fee simple acquisition would be employed is unknown, and the cost of the land segments for each trail would vary due to geographic location and the long time span over which the acquisition work would take place. The Administration will identify the costs for each trail on a case-by-case basis.

By bringing the land acquisition authority on these nine trails in line with those in the majority of national scenic and national historic trails in the National Trail System, S. 169 would allow the Federal government to assist in the protection of these trails, through donation, easements, and, as a last resort, fee simple acquisition from landowners actively interested in selling land for trail protection.

Mr. Chairman, this concludes my prepared testimony. I would be happy to answer any questions you or your committee may have.

Proposed Amendment to S. 169

On p. 2, line 9, after “thereof.” insert “The Secretary shall give priority to acquiring lands by donation and acquiring easements or other alternatives to fee title when appropriate.”

On p. 2, line 19, after “thereof.” insert “The Secretary shall give priority to acquiring lands by donation and acquiring easements or other alternatives to fee title when appropriate.”

On p. 3, line 3, after “thereof.” insert “The Secretary shall give priority to acquiring lands by donation and acquiring easements or other alternatives to fee title when appropriate.”

On p. 3, line 13, after “thereof.” insert “The Secretary shall give priority to acquiring lands by donation and acquiring easements or other alternatives to fee title when appropriate.”

On p. 3, line 23, after “thereof.” insert “The Secretary shall give priority to acquiring lands by donation and acquiring easements or other alternatives to fee title when appropriate.”

On p. 4, line 9, after “thereof.” insert “The Secretary shall give priority to acquiring lands by donation and acquiring easements or other alternatives to fee title when appropriate.”

On p. 4, line 16, after “thereof.” insert “The Secretary shall give priority to acquiring lands by donation and acquiring easements or other alternatives to fee title when appropriate.”

On p. 4, line 23, after “thereof.” insert “The Secretary shall give priority to acquiring lands by donation and acquiring easements or other alternatives to fee title when appropriate.”

On p. 5, line 5, after “thereof.” insert “The Secretary shall give priority to acquiring lands by donation and acquiring easements or other alternatives to fee title when appropriate.”